

# Newton County

## Local Rules of Court

2004



Hon. Jeryl F. Leach  
Circuit Court Judge

Hon. Daniel J. Molter  
Superior Court Judge

# OFFICERS OF THE COURT

## Circuit Court

Jeryl F. Leach, *Judge*  
Beverly Bingham, *Court Reporter*  
Cheryl Myers, *Court Administrator*  
Richard Harris, *Bailiff*

## Superior Court

Daniel J. Molter, *Judge*  
Mary Madison, *Court Reporter*  
Diane Whaley, *Court Administrator*

## **Newton Circuit and Superior Courts 79<sup>th</sup> Judicial Circuit**

It is ORDERED that all existing Local Rules of the Newton County Courts shall be and the same hereby are revoked as of 4:30 p.m. on December 31, 2004.

IT IS FURTHER ORDERED that the following Local Rules relating to practice and procedure in these Courts be and hereby are adopted, effective 4:30 p.m. December 31, 2004.

ORDERED this 7<sup>th</sup> day of December, 2004.

Jeryl F. Leach, Judge  
Newton Circuit Court

Daniel J. Molter, Judge  
Newton Superior Court

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## **LR-56-1. Citations**

**1.1.** Any citation to these Rules shall include the following:

- (A) The designation that the cite is to a local rule - “LR”;
- (B) The county identifier as designated by the Indiana Supreme Court - “56”;
- (C) The number assigned the specific Local Rule.

**1.2.** Following each of the Local Rules is a cite to the state level rule from which the local rule originated, if such a state level rule existed at the time of the creation of these Local Rules.

## **LR-56-2. Pleadings**

**2.1.** Times New Roman, Courier, Arial or similar type shall be used on all pleadings. No script or elaborate fonts will be accepted. **(Ind. TR. 10)**

**2.2.** With the exception of criminal matters, all original copies of pleadings must be executed with an original signature. No signature stamps or reproduced signatures will be accepted. **(Ind. TR. 11)**

**2.3.** All pleadings in cases involving a Special Judge shall have the phrase “SPECIAL JUDGE” typed directly under the cause number on the right-hand side of the caption. Directly under the phrase “SPECIAL JUDGE” shall appear the Special Judge’s name. **(Ind. TR. 10)**

**2.4.** Absent an emergency, the Court will not accept pleadings by fax. A pleading accepted by fax will not be automatically granted and it is the responsibility of the proponent to check the disposition of the pleading. The parties sending a fax to the Court must do so in accordance with Administrative Rule 12 of the Supreme Court. In addition, a party submitting a pleading by fax must immediately forward to the Court the original and an appropriate number of copies to be file marked pursuant to Administrative Rule 12. **(Ind. TR. 5)**

**2.5.** Parties may notify the Court by fax that they have agreed to settle or continue a matter. Such a notification will be deemed a mere correspondence and not a pleading officially filed in the pending cause. The parties must submit original pleadings confirming the notification which will be file marked upon receipt by the Court or as otherwise dictated by statute or rule. Fax notification does not remove a cause from the Court's calendar. It is the responsibility of the parties to check the status of the pending cause. **(Ind. TR. 5)**

**2.6.** All pleadings requesting Court action without a hearing shall be accompanied by a proposed order. All proposed orders seeking a hearing date and time shall set forth the projected amount of Court time needed and shall contain blanks for the date and time. **(Ind. TR. 5)**

**2.7.** After summons is issued, a party shall not submit any pleading to the Court without including an addressed and stamped envelope for each party or their counsel. This requirement does not apply when service upon a party is requested by means other than regular mail or when any party's attorney maintains an attorney box for service purposes at the Court. **(Ind. TR. 5)**

**2.8.** A plaintiff whose case has been stayed due to a Bankruptcy filing shall notify the Court upon disposition of the Bankruptcy case. **(Ind. TR. 7)**

**2.9.** Agreed matters shall be submitted in a written Order, accompanied with any other appropriate document such as a Decree, a Wage-Withholding Order, or a Qualified Domestic Relations Order. If the parties reach a settlement "on the courthouse steps," then the Court may accept evidence of that settlement on the record, and enter the appropriate order upon preparation and filing by counsel within a period of time set by the Court. If an agreement is not set forth on the record, each party (not just their attorney) must sign the agreement. **(Ind. TR. 7 AND 10)**

### **LR-56-3. Discovery**

**3.1.** In all relevant family law matters, including dissolutions, separations, post-decree and support proceedings, each party shall prepare and exchange, within 45 days of the initial filing of the action or within 30 days of the filing of any post-decree matters, a Newton County Financial Declaration Form (see Appendix A). These time limits may be extended or shortened by Court order for good cause shown. **(Ind. TR. 26)**

(A) The Financial Declaration Form need not be exchanged if:

- (1) The parties agree in writing to waive exchange;
- (2) The proceeding is post-decree and concerns issues without financial implications;
- (3) The opposing party does not appear in a new action or does not respond in a modification action.

(B) Each party shall attach to the Financial Declaration Form all supporting information reasonably available; including recent bills, wage and tax records, and bank, pension and year-end mortgage statements. "Reasonably available " means material that may be obtained by letter accompanied with an authorization, but does not mean material that must be subpoenaed or is in the possession of the other party. Appraisals of real estate and pensions, or of personal property such as jewelry, antiques or special collections (stamps, coins or guns, for example), are not required. However, once an appraisal is obtained, it must be exchanged. Moreover, the Court may direct that an appraisal be obtained, just as it may designate the appraiser.

(C) Pursuant to Trial Rule 26(E) (2) and (3), Financial Declaration Forms shall be supplemented if additional material becomes available.

(D) Trial Rule 37 sanctions shall apply to the exchange of Financial Declaration Forms.

**3.2.** Interrogatories shall be limited to a reasonable number based on the type and complexity of the litigation. **(Ind. TR. 33)**

**3.3.** Once information has been elicited by a party in discovery, the same information shall not be sought in other forms of discovery. The use of Requests for Admissions or Financial Declaration Forms shall be exempt from this limitation on duplicative discovery. **(Ind. TR. 26)**

#### **LR-56-4. Pre-Trial Conferences**

##### **4.1. Case Management Conference (CMC)**

(A) A CMC shall be held in every civil plenary and civil tort action. The Plaintiff shall request a CMC after the filing of all Answers and not more than ninety days after the filing of the Complaint. Any extension of time to answer granted a defendant shall similarly extend the time for plaintiff to request a CMC. No CMC is required where a defendant fails to answer the complaint and the plaintiff moves for default.

(B) A CMC may be requested by either party in a family law matter reasonably anticipated to go to trial. The CMC must be held at least sixty days prior to final hearing on the issues.

##### **4.2. Final Pre-Trial Conference (FPTC)**

(A) A FPTC, conducted pursuant to Trial Rule 16, shall be held in all matters proceeding to trial.

(B) Plaintiff/Petitioner shall be responsible for seeking the setting of the FPTC which must be held no more than thirty days prior to trial date. **(Ind. TR. 16)**

#### **LR-56-5. Hearings on Motions and Trials**

**5.1.** Only the Court may set a time and date for hearing or trial. **(Ind. TR. 73)**

**5.2.** In order to avoid conflicts, Special Judges shall consult the Court before setting a hearing or trial. **(Ind. TR. 73 AND 79)**

**5.3.** Any party planning to submit more than three exhibits at hearing or trial shall have their exhibits marked for identification with standard exhibit stickers prior to hearing or trial. Moving parties shall mark their exhibits using numbers and responding parties shall mark their exhibits using letters. **(Ind. TR. 16)**

**5.4.** If parties are not prepared to begin their hearing or trial within fifteen minutes of the scheduled time, the Court may: proceed to hear the matter without any party present; make a decision without hearing; continue the matter to a later date and time and/or impose appropriate sanctions. **(Ind. TR. 73)**

#### **LR-56-6. Jury Rules (Ind. Jury Rules)**

**6.1.** The Judges of the Newton County Courts shall, pursuant to the Indiana Jury Rules, jointly administer the jury assembly process.

**6.2.** The Newton County Clerk is appointed as Chief Assistant Jury Administrator.

**6.3.** The Newton County Judges shall approve or deny requests for clerical assistants by the Chief Assistant Jury Administrator

**6.4.** The Chief Assistant Jury Administrator shall compile a jury pool and jury panels in accordance with the Indiana Jury Rules



**6.5.** The Chief Assistant Jury Administrator shall utilize the two-tier approach established in the Indiana Jury Rules for Notice and Summons to prospective jurors.

**6.6.** The Newton County Courts may create any forms necessary to implement this Rule and the Indiana Jury Rules.

**LR-56-7. Selection of Special Judge-Non-Criminal (Ind. TR. 79)**

**7.1.** In the event a Special Judge selected under Indiana Trial Rule 79 (D), (E) or (F) does not accept the case, or a Judge disqualifies and recuses under Section (C) of Indiana Trial Rule 79, the appointment of an eligible Special Judge shall be made as follows:

(A) Where the cause number of the case begins with 56C01, the Judge of Newton Superior Court shall be appointed;

(B) Where the cause number of the case begins with 56D01, the Judge of Newton Circuit Court shall be appointed;

(C) In the event the Special Judge selected by this Rule [LR-56-7] is unable to serve, the Clerk of the original Court shall select as Special Judge any Judge from Benton or Jasper Counties or any Senior Judge appointed to the Court;

(D) It shall be the duty of the Newton County Clerk to maintain a record of Special Judge selections made pursuant to Section (C) [LR-56-7.1(C)] in order to insure that the case load is evenly distributed.

**7.2.** In cases where no Judge is eligible to serve as a Special Judge pursuant to this Rule [LR-56-7] or when the particular circumstances of a case warrant, the presiding Judge shall certify the case to the Indiana Supreme Court for appointment of a Special Judge.

**LR-56-8. Criminal Rules (Ind. CR. 2.2)**

**8.1.** All criminal cases shall be filed in the Superior Court.

**8.2.** All juvenile cases shall be filed in the Circuit Court. In the event that a juvenile is waived to criminal jurisdiction, the Circuit Court shall retain jurisdiction in that case.

**8.3.** Each matter filed in each of the Courts shall routinely be assigned to the Judge elected or appointed to serve in that respective Court. Despite routine assignment of cases, the Judges herein reserve the right to assign any case at any time to the other sitting Judge, subject to acceptance by the assigned Judge. In the event either a juvenile or criminal case is reassigned to another Judge without prior consent of the parties and after the time has lapsed for requesting a change of Judge under Criminal Rule 12, the parties shall have five days from the assignment to file a motion for change of Judge.

**8.4.** Once a case has been filed and assigned to a particular Court and Judge then that Court and Judge shall retain jurisdiction over every matter relating to the disposition of the case, including matters and motions relating to the dismissal and refiling of charges or allegations.

**8.5.** In the event a motion for change of Judge is granted by the regular presiding Judge or successor Judge assigned pursuant to LR-56-8.3, then that Judge shall elect to reassign the case to the other sitting Judge in the County, to assign the matter to a Senior Judge, or to compose a panel of Judges sitting in contiguous counties. Senior Judge Robert M. Hall, Judge E. Duane Daugherty of Jasper Circuit Court, Judge J. Phillip McGraw of Jasper Superior Court, and Judge Rex W. Kepner of Benton Circuit Court have agreed to serve in the event they are assigned a case under this Rule. When a panel is appointed, the party requesting a change of Judge shall, within five days of notice that a panel has been named, strike a name from the panel. Thereafter, the opposing party shall have five days during which to strike a name from the panel.

Whenever a party shall fail to strike in a timely manner, the Clerk of Newton County shall strike in the party's place. The Judge remaining after the appropriate strikes shall be assigned the case.

#### **LR-56-9. Estates**

**9.1.** The Social Security number of the Personal Representative or Guardian must be provided to the Court at the time of opening an Estate or Guardianship.

**9.2.** In all instances in which real estate is to be sold, a current written appraisal setting forth the fair market value thereof should be filed with the Court at the time of the filing of the Petition seeking such sale and must be filed no later than at the time of the hearing approving such sale.

**9.3.** All Deeds submitted to the Court for approval must be signed by the Fiduciary and the signature notarized prior to its submission. All such Deeds are to be submitted with the Report of Sale of Real Estate or at the time of hearing on the Final Account. Copies of such Deeds must be filed for the Court records.

**9.4.** No fee request will be considered as a part of the Final Account in any Estate or Guardianship proceedings. A separate petition must be filed requesting such fee determination.

**9.5.** No fee, whether in whole or in part, in any proceeding except in the Unsupervised Administration of a Decedent's Estate, shall be paid without the prior approval of the Court.

**9.6.** The name and address of the Insurance Agency providing the corporate surety must be typed on all corporate bonds filed.

**9.7.** When a bond is required, the Court will determine and set the amount of the bond and in no event shall it be less than that required to protect creditors and taxing authorities.

**9.8.** No Attorney will be accepted as surety on any bond required to be filed in Court.

**9.9.** It shall be the responsibility of the Attorney and/or the Personal Representative to provide notice of the opening of the Estate to any reasonably ascertainable creditor.

**9.10.** Proof of publication of all notices required to be published shall be filed with the Court by the Attorney and/or the Personal Representative for the Estate. It is the Attorney's and/or the Personal Representative's responsibility to ensure that publication was timely made, and proof thereof is properly filed with the Court.

**9.11.** If the Personal Representative has filed a claim in the Estate, the claim may be allowed by the Court if all interested parties have consented thereto. In the event the consents have not been obtained, a hearing on the claim will be held as prescribed by statute.

**9.12.** The Court shall have no involvement, other than for opening, closing, determining Indiana Inheritance Tax due and hearing petitions regarding fees (if sought) in an Unsupervised Administration of a Decedent's Estate. If the jurisdiction of the Court is invoked for any other matter, the Administration shall become a Supervised Administration from there on for all remaining matters.

**9.13.** No Attorney or Personal Representative fees will be determined and authorized for payment by the Court in any Unsupervised Administration of a Decedent's Estate, unless a petition for fees or objection to fees is filed with the Court. If such a petition or objection is not filed, the Court will not become involved in the determination of fees in an Unsupervised Administration of a Decedent's Estate.

**9.14.** Any Attorney or Personal Representative fees determined to be due by reason of jointly held assets shall be assessed against the owner of the jointly held asset.

**9.15.** Although not required by law, the Federal Estate Tax Closing letter and/or the countersigned receipt, or a photocopy thereof, showing payment of the Indiana Inheritance Tax liability in the Estate, executed and sealed by the Indiana Department of the State Revenue, should be attached to the Final Report at the time of filing.

**9.16.** When a verified closing statement has been filed, an affidavit executed by the Personal Representative stating that no proceedings are pending shall be filed with the Court upon the expiration of the three-month statutory waiting period.

**9.17.** In the event a petition is filed requesting that an Estate be closed as insolvent, a hearing shall be held thereon. The Attorney or Personal Representative shall give Notice to the Newton County Assessor, all interested parties, all claimants and all reasonably ascertainable creditors.

#### **LR-56-10. Guardianships**

**10.1.** Rule 9.1 through Rule 9.6, of these Local Rules shall also apply to Guardianships.

**10.2.** Prior to appointment of a Guardian, a written acknowledgment containing the specific duties, responsibilities and powers of the Guardian must be signed by the proposed Guardian and filed with the Court.

**10.3.** In all Guardianships filed for the purpose of declaring an adult incapacitated, supporting medical testimony is required. At a minimum, an acceptable Affidavit, executed by the Doctor treating the alleged incapacitated person, must be submitted at the time the petition is filed or on the hearing date.

**10.4.** A bond shall be required to the full extent of the value of the personal property assets and one year's estimated income from all assets in the Guardianship.

**10.5.** Where a restricted account has been created, an acknowledgment of or acquiescence to the restriction by the financial institution involved must be filed by the Guardian or Attorney within ten (10) business days of the Court Order creating such an account.

**10.6.** In the event an individual is appointed Guardian to handle the financial affairs of a protected person, the Guardian shall file his/her first current Account within thirty (30) days after the first anniversary of the date on which the letters were issued.

**10.7.** Where assets are claimed to be in a financial or holding institution, the Guardian's Accounting must contain a certification by an officer of the institution as to the amount and value of the assets remaining in the guardianship account. The certification must be dated by the officer not more than ten (10) days prior to the date of filing the Accounting.

**10.8.** All Social Security benefits received on behalf of a protected person must be included and accounted for in the Guardian's Accountings.

#### **LR-56-11. Court Reporters (Ind. AR. 15)**

##### **11.1. Definitions:**

(A)“Court Reporters” - A person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.

(B)“Equipment” - All physical items owned by the Courts or other governmental entity and used by a Court Reporter in performing Court reporting services. Equipment shall include,

but not be limited to: telephones, computer hardware, software programs, disks, tapes and any other device used for recording and storing and transcribing electronic data.

(C)“Work Space” - That portion of the Courts’ facilities dedicated to each Court Reporter, including but not limited to actual space in the courtroom and any designated office space.

(D)“Page” - The page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.

(E)“Recording” - The electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.

(F)“Regular Work Hours” - Those hours set by the Newton County Commissioners for the Newton County Courthouse to be opened during a regular, non-holiday Work Week.

(G)“Gap Hours Worked” - Those hours worked in excess of the Regular Work Hours but not more than forty hours in a week.

(H)“Overtime Hours Worked” - Those hours worked in excess of forty hours in a week.

(I)“Work Week” - A period of seven consecutive days that consistently begins and ends on the same days through the year(e.g. Sunday through Saturday or Thursday through Wednesday).

(J)“Court” - The particular court for which the Court Reporter performs services. Court may also mean all of the Courts in Newton County.

(K)“County Indigent Transcript” - A transcript that is paid for from county funds and is for use on behalf of a litigant who has been declared indigent by a Court.

(L)“State Indigent Transcript” - A transcript that is paid for from state funds and is for use on behalf of a litigant who has declared indigent by a Court.

(M)“Private Transcript” - A transcript, including a transcript of a deposition, that is paid for by a private party.

**11.2.** Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising Court during any Regular Work Hours. The supervising Court shall enter into a written agreement with the Court Reporters which outlines the manner in which the Court Reporter is to be compensated for Gap and Overtime Hours(i.e. monetary compensation or compensatory time off Regular Work Hours).

**11.3.** The maximum per Page fee a Court Reporter may charge for the preparation of a transcript shall be \$3.50. This fee shall be increased to \$6.00 per Page where a Private Transcript is requested to be prepared within twenty-four hours or \$5.00 per Page where a Private Transcript is requested to be prepared within five working days.

**11.4.** Each Court Reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either County Indigent, State Indigent or Private Transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

**11.5.** A Court Reporter may elect to engage in private practice through the recording of a deposition and/or preparation of a deposition transcript, and may elect to utilize the Court’s Equipment, Work Space, and supplies and the Court may authorize the use thereof, provided:



(A) The Court Reporter shall tender to the Auditor of Newton County a sum equal to twenty-five cents for each Page of furnished completed transcription as reasonable reimbursement for the cost of the use of Equipment, Work Space, and supplies;

(B) The Court Reporter shall tender such sums immediately upon receipt of payment in full for services rendered. However, where services are rendered on behalf of an indigent person for whom the Auditor of Newton County is liable for payment, then a sum equal to twenty-five cents for each completed Page shall be deducted from the gross balance due the Court Reporter as reimbursement for the use of Equipment, Work Space, and supplies.

**11.6.** If a Court Reporter elects to engage in private practice through the recording of a deposition and/or preparation of a deposition transcript, all such private practice work shall be conducted outside of Regular Work Hours. However, a presiding Judge may permit private work during Regular Work Hours where the Prosecuting Attorney or other government entity is a party to the cause and it is in the interest of justice or the expedient resolution of a particular case that the Court Reporter provide such services during Regular Work Hours.

**LR-56-12. Small Claims (Ind. S.C. 13)** All parties and their attorneys are responsible for abiding by the provisions of the Newton County Small Claims Manual.

**LR-56-13. General Rules (Ind. TR. 81)**

**13.1.** In keeping with the tradition of the Courts and out of respect for the position, the Judge will wear a judicial robe while presiding in open court.

**13.2.** Male attorneys shall appear in open court wearing a suit coat and tie. Female attorneys shall appear in open court wearing a garment similar in nature to a suit coat.

**13.3.** All individuals appearing in open court shall be dressed properly and shall act respectfully. Attorneys will be responsible for advising their clients of this Rule.

**13.4.** No law book shall be removed from the Court library or offices without checking out the same through the Circuit Court Bailiff. Any person failing to timely return any book will be fined for the delay and assessed the cost to replace the book if it is lost or missing for more than two weeks.

**13.5.** No smoking will be permitted in or near the courtrooms, except that smoking will be permitted in the Bailiff's office directly adjacent to the Circuit Court jury room.

**13.6.** All parties participating in a case in which child support is ordered must provide to the Clerk of the Court all information necessary to complete the Child Support Intake Sheet. If a party is present when a support order is entered, said party must provide the requisite information immediately to the Clerk. If a party is not present, the party shall have seven days from the date of receipt of the Order establishing support to provide the requisite information to the Clerk.

**13.7.** The Courts may impose appropriate sanctions for a violation of any of these Local Rules.

**13.8.** The Courts may waive any Local Rule, or part thereof.

**LR56-14      Newton County Alcohol And Drug Related Offenses  
Schedule Of Fees**

\$159.00	COURT COSTS
\$200.00	COUNTERMEASURE FEE
\$285.00	DRUG AND ALCOHOL USER FEE (FIRST OFFENSE)
\$320.00	DRUG AND ALCOHOL USER FEE (SECOND OFFENSE)
\$100.00	PROBATION ADMINISTRATIVE FEE (FELONY)
\$100.00	INITIAL PROBATION USER FEE (FELONY)
\$ 30.00	MONTHLY PROBATION USER FEE (FELONY)
\$ 50.00	PROBATION ADMINISTRATIVE FEE (MISDEMEANOR)
\$ 50.00	INITIAL PROBATION USER FEE (MISDEMEANOR)
\$ 20.00	MONTHLY PROBATION USER FEE (MISDEMEANOR)
\$ 25.00	INITIAL FEE ELECTRONIC MONITORED HOME DETENTION
\$ 7.00	PER DAY FEE ELECTRONIC MONITORED DETENTION (NEWTON COUNTY CASE)
\$ 8.00	PER DAY FEE ELECTRONIC MONITORED DETENTION (COURTESY SUPERVISION)
\$ 25.00	DRUG TEST ADMINISTERED BY PROBATION DEPARTMENT RESULTS OBTAINED BY TOXICOLOGIST

**APPENDIX A**

**NEWTON COUNTY FINANCIAL DECLARATION FORM**

IN RE THE MARRIAGE OF)

\_\_\_\_\_) )  
\_\_\_\_\_) ) CAUSE NO.  
and \_\_\_\_\_) )  
\_\_\_\_\_) )

FINANCIAL DECLARATION OF: \_\_\_\_\_

(\*Check one\*) Husband/Father/Putative Father: \_\_\_\_\_ Wife/Mother: \_\_\_\_\_

Address: \_\_\_\_\_

Soc. Sec. No.: \_\_\_\_\_ Birth Date: \_\_\_\_\_

Employer: \_\_\_\_\_ Badge/Payroll No.: \_\_\_\_\_

Occupation: \_\_\_\_\_

DATE OF MARRIAGE: \_\_\_\_\_

DATE OF PHYSICAL SEPARATION: \_\_\_\_\_

DATE OF FILING: \_\_\_\_\_

Names and dates of birth of all children of this relationship, whether by birth or adoption:

\_\_\_\_\_  
\_\_\_\_\_

Names and dates of birth of all your children **NOT** of this relationship, whether by birth or adoption:

\_\_\_\_\_  
\_\_\_\_\_

**NOTE:** THIS DECLARATION IS CONSIDERED MANDATORY DISCOVERY AND MUST BE EXCHANGED BETWEEN THE PARTIES WITHIN THE TIME PRESCRIBED BY THE NEWTON COUNTY LOCAL RULES. PARTIES NOT REPRESENTED BY COUNSEL ARE REQUIRED TO COMPLY WITH THESE RULES. FAILURE BY EITHER PARTY TO COMPLETE AND EXCHANGE THIS FORM AS REQUIRED WILL AUTHORIZE THE COURT TO IMPOSE THE SANCTIONS SET FORTH IN THE NEWTON COUNTY LOCAL RULES.

## **PART I. STATEMENT OF INCOME, EXPENSES, ASSETS AND LIABILITIES**

Attach copies of your state and federal income tax returns for the last three taxable years and wage statements from your employer(s) for the last eight weeks.

Note: If remarried, attach separate sheets for subparts A, B, and C for current spouse.

### **A. GROSS WEEKLY INCOME**

from: Salary and Wages, including  
commissions, bonuses, allowances  
and overtime, payable

\_\_\_\_\_

Pay Period

\_\_\_\_\_

Note: If paid monthly, determine  
weekly income by dividing monthly  
income by 4.3

\_\_\_\_\_

Pension and Retirement Plans

\_\_\_\_\_

Social Security  
Disability and  
Unemployment Insurance

SS: \_\_\_\_\_

UI: \_\_\_\_\_

Public Assistance -  
(Welfare, AFDC payments,  
etc.)

\_\_\_\_\_

\_\_\_\_\_

Food Stamps

\_\_\_\_\_

Child Support received for any child(ren) not  
born of the parties to this marriage

\_\_\_\_\_

Dividends and Interest

\_\_\_\_\_

Rents Received

\_\_\_\_\_

All Other Sources (Specify)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**TOTAL GROSS WEEKLY INCOME**

\_\_\_\_\_

**B. ITEMIZED WEEKLY DEDUCTIONS** from gross  
income:

State & Federal Income Taxes \_\_\_\_\_

Number of Exemptions Taken \_\_\_\_\_

Social Security \_\_\_\_\_

Medical Insurance  
(list all persons covered) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Coverage: (check all that apply)

Medical  
Dental  
Eye Care  
Psychiatric

Union or other dues \_\_\_\_\_

Retirement or pension fund: \_\_\_\_\_  
Mandatory: \_\_\_\_ Optional: \_\_\_\_

Credit Union loans \_\_\_\_\_

Savings: Thrift Plans \_\_\_\_\_  
Credit Union \_\_\_\_\_  
Bonds \_\_\_\_\_  
Other (specify) \_\_\_\_\_

Other (Specify): \_\_\_\_\_

**TOTAL WEEKLY DEDUCTIONS** \_\_\_\_\_

**C. WEEKLY DISPOSABLE INCOME**

(A minus B: Subtract Total

Weekly Deductions from Total

Weekly Gross Income:) \_\_\_\_\_

**D. IN ALL CASES INVOLVING CHILD SUPPORT:** Prepare and attach any  
Indiana Child Support Guideline Worksheet (with documentation verifying your income); or,  
supplement with such a Worksheet within ten (10) days of the exchange of this Form.

**E. SELECTED MONTHLY LIVING EXPENSES:** (List names and relations of each person in your household whose expenses are included).

Are you the Custodial Parent? \_\_\_\_\_

Rent or Mortgage payments (residence) \_\_\_\_\_

Real Property Taxes (residence) if not included in mortgage payment \_\_\_\_\_

Insurance (residence) if not included in mortgage payment \_\_\_\_\_

Utilities (including water, sewer, electricity, gas, heat, and garbage) \_\_\_\_\_

Telephone \_\_\_\_\_

Child Support not withheld from pay (not including this case) \_\_\_\_\_

Medical (not covered by insurance) \_\_\_\_\_

Dental (not covered by insurance) \_\_\_\_\_

Insurance (life, health, accident, liability, disability; exclude payroll deducted & automobile) \_\_\_\_\_

School (including, if applicable, colleges, universities, or trade schools) \_\_\_\_\_

Child Care and Preschool \_\_\_\_\_

Transportation (other than automobile) \_\_\_\_\_

Auto payments \_\_\_\_\_

Auto insurance (not included in auto payment) \_\_\_\_\_

Other (specify): \_\_\_\_\_

**MONTHLY TOTAL EXPENSES** \_\_\_\_\_

**AVERAGE WEEKLY EXPENSES** \_\_\_\_\_

(Divide total monthly expenses by 4.3) \_\_\_\_\_

Note: Indicate which of the foregoing expenses are delinquent and the amount thereof.

**F. DEBTS AND OBLIGATIONS:** (Include credit union) Attach additional sheets as needed.

<u>CREDITOR'S NAME</u>	<u>DATE PAYABLE</u>	<u>BALANCE</u>	<u>MONTHLY PAYMENT</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
<b>TOTAL</b>		_____	_____

**ATTACH A COPY OF THE MOST RECENT STATEMENT FOR EACH DEBT.**

*Note: Indicate any special circumstances, i.e., premarital debts, debts in arrears on the date of physical separation, or date of filing and the amount or number of payments in arrears.*

## **PART II. NET WORTH**

List all property owned either individually or jointly. Indicate who holds or how title held: (H) Husband, (W) Wife, or (J) Jointly. **WHERE SPACE IS INSUFFICIENT FOR COMPLETE INFORMATION OR LISTING PLEASE ATTACH SEPARATE SCHEDULE.**

	<u>OWNERSHIP</u> <u>(H/W/J)</u>	<u>VALUE</u>	<u>BALANCE(S) OWED</u> <u>(Identify Creditors)</u>
<b><u>A. HOUSEHOLD</u></b>			
<b><u>FURNISHINGS</u></b> (Value of Furniture, Appliances, and Equipment, as a whole; that is, you need not itemize)	_____ _____ _____	_____ _____ _____	_____ _____ _____
<b><u>B. AUTOMOBILES</u></b>			
(Year and Make) Indicate Regular Driver	_____ _____ _____ _____	_____ _____ _____ _____	_____ _____ _____ _____



### **C. SECURITIES**

(Stocks, Bonds, Etc.)

<b><u>COMPANY</u></b>	<b><u>OWNERSHIP (H/W/J)</u></b>	<b><u>VALUE</u></b>	<b><u>NUMBER OF SHARES</u></b>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

### **D. CASH AND DEPOSIT**

**ACCOUNTS** (including banks;  
savings and loan associations;  
unions; thrift plans; mutual funds;  
certificates of deposit; savings and  
checking accounts; IRA's and annuities)

<b><u>INSTITUTION</u></b>	<b><u>OWNERSHIP (H/W/J)</u></b>	<b><u>VALUE</u></b>	<b><u>ACCOUNT NUMBER</u></b>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

### **E. LIFE INSURANCE**

<b><u>COMPANY/ POLICY NO.</u></b>	<b><u>OWNERSHIP (H/W/J)</u></b>	<b><u>BENEFICIARY</u></b>	<b><u>FACE AMOUNT</u></b>	<b><u>TYPE: TERM, WHOLE LIFE, GROUP</u></b>	<b><u>CASH VALUE/ LOAN AMOUNT</u></b>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

### **F. RETIREMENT PLANS**

<b><u>NAME OF PLAN</u></b>	<b><u>OWNERSHIP (H/W/J)</u></b>	<b><u>VESTED YES/NO</u></b>	<b><u>MONTHLY BENEFIT AT EARLIEST RETIREMENT DATE</u></b>	<b><u>PRESENT VALUE (IF KNOWN)</u></b>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

*Attach documents from each plan verifying information. If not yet received, attach a copy of your written request to the plan(s).*

**G. REAL ESTATE** (attach separate sheet with the following information for each parcel).

Address: \_\_\_\_\_ Type of Property: \_\_\_\_\_

\_\_\_\_\_ Date of Acquisition: \_\_\_\_\_

Original Cost: \_\_\_\_\_ Present Value: \_\_\_\_\_

Cost of Additions: \_\_\_\_\_ Basis for valuation (attach appraisal if obtained):

Total Cost: \_\_\_\_\_

Mortgage Balance: \_\_\_\_\_

Other Liens: \_\_\_\_\_

Equity: \_\_\_\_\_

Monthly Payment: \_\_\_\_\_ To Whom Paid: \_\_\_\_\_

Taxes (if not included in payment): \_\_\_\_\_ Insurance (if not included in payment): \_\_\_\_\_

Special Assessments: \_\_\_\_\_

Individual Contributions to the Real Estate (for example; inheritance, premarital assets, personal loans).

**H. BUSINESS OR PROFESSIONAL INTERESTS**

(Indicate name, share, type of business, value less indebtedness)

**I. OTHER ASSETS** (for example: coin, stamp, or gun collections, or other items of unusual value). Use Additional Sheets as Needed.

**J. ATTACH ALL AVAILABLE DOCUMENTATION TO VERIFY VALUES**

### **PART III. ARREARAGE COMPUTATION**

If this matter involves an allegation of support or other arrearage, attach all records or other exhibits regarding payment history and compute the arrearage as of the date of the filing of the petition or motion which raises that issue.

### **PART IV. VERIFICATION**

I declare, under the penalty of perjury, that the foregoing, including any valuations and attachments, is true and correct and that I have made a complete and absolute disclosure of all of my assets and liabilities. Furthermore, I understand that if in the future, it is proven to this Court that I have intentionally failed to disclose any asset or liability, I may lose the asset and may be required to pay the liability. Finally, I acknowledge that sanctions may be imposed against me, including reasonable attorney's fees and expenses incurred in the investigation, preparation, and prosecution of any claim or action that proves my failure to disclose assets or liabilities.

Date: \_\_\_\_\_

### **PART V. ATTORNEY'S CERTIFICATION**

I have reviewed with my client, the foregoing information, including any valuations and attachments, and sign this certification consistent with my obligation under Trial Rule 11 of the Indiana Rules of Procedure.

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Attorney No: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

## **APPENDIX B**

### **FEE GUIDELINES FOR ESTATE MATTERS**

#### **PREAMBLE**

Although fee guidelines have been promulgated by the Court for Estate matters, it is important that certain criteria be called to your attention as they pertain to these guidelines.

The existence of these guidelines does not assure that all fees allowed by the Court will adhere to them. Other factors must be considered by the Attorney and his, or her, Client. These same factors will also be considered by the Court in making its determination. The criteria to be considered include the following:

- (1) The time and labor required; the novelty, complexity, or difficulty of the questions involved and the skill required to perform the services properly. This shall include a determination as to how much of the Attorney's time was devoted to legal matters and how much of it was devoted to ministerial functions;
- (2) The nature and extent of the responsibilities assumed by the Attorney and the results obtained. Included herein are considerations of the identity of the Personal Representative and the character of the probate assets and non-probate transferred assets;
- (3) The sufficiency of assets properly available to pay for legal services. Inherent herein is whether the Attorney's duties are expanded by the existence of non-probate assets because of their inclusion for tax purposes, both federal and state;

(4) The timeliness with which the necessary services are performed consistent with statutory requirements, the Court's Rules of Procedure and the Rules of Professional Conduct applicable thereto.

In considering all of these factors, Attorneys are urged to discuss their fee and that of the Personal Representative at the time they are retained in an Estate matter.

### **FEE GUIDELINES**

#### **I. Attorney**

##### **A. REGULAR ADMINISTRATION**

###### **1. \$ 200,000 or less:**

- (a.) Gross value of estate .....6%;
- (b.) All other services, shall be as agreed to, determined upon a reasonableness standard.

###### **2. Over \$ 200,000:**

- (a.) Gross estate up to \$ 200,000 .....6%;
- (b.) \$ 200,001 to \$ 400,000 .....4%;
- (c.) \$ 400,001 to \$ 800,000 .....3%;
- (d.) Over \$ 800,000 .....2%.

###### **3. Federal Estate Tax assets which exceed assets in Inheritance Tax Schedule .....1%.**

###### **4. All other services, shall be as agreed to, determined upon a reasonableness standard.**

#### **II. Personal Representative**

##### **A. Non-Professional:**

- 1. One-half (1/2) of the Attorney fee.
- 2. If unusual services, add at \$ 10.00 per hour if assets warrant.

##### **B. Professional**

- 1. A reasonable rate to be reviewed in light of all circumstances.

**III. The total fees allowed to the Personal Representative and Attorney shall not exceed Ten Percent of the Decedent's gross estate.**

## APPENDIX C

## LOG OF AMENDMENTS TO THESE RULES

All Newton County Local Rules were vacated on December 31, 2004. By the same Order, new Local Rules were enacted simultaneously. This Log is intended to be a method by which you can assure yourself that you are referencing the most recent Local Rules. It is strongly recommended that you make a Log entry as soon as a new Local Rule is created or an existing Local Rule is modified.

[illegible]